

## United States Patent Application

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **MASS TRANSPORT LIMITED *IN VIVO* ANALYTE SENSOR**

The specification of which

- a. ☐ is attached hereto  
b. ☒ was filed on June 16, 2000, as application serial no. 09/595,708 and was amended on (if applicable) (in the case of a PCT-filed application) described and claimed in international no. filed and as amended on (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.  
b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
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I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)
60/194,618	5 April 2000
60/139,936	18 June 1999

I hereby appoint the following attorney(s) /or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

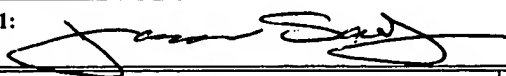
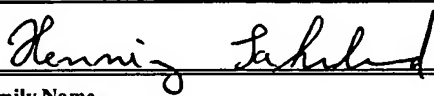
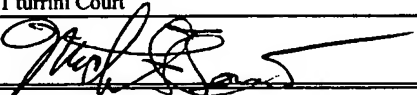
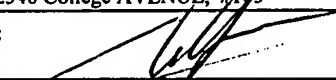
Albrecht, John W.	Reg. No. 40,481	Leon, Andrew J.	Reg. No. 46,869
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Keys, Jeramie J.	Reg. No. 42,724	Withers, James D.	Reg. No. 40,376
Knearl, Homer L.	Reg. No. 21,197	Witt, Jonelle	Reg. No. 41,980
Kowalchyk, Alan W.	Reg. No. 31,535	Wu, Tong	Reg. No. 43,361
Kowalchyk, Katherine M.	Reg. No. 36,848	Xu, Min S.	Reg. No. 39,536
Lacy, Paul E.	Reg. No. 38,946	Zeuli, Anthony R.	Reg. No. 45,255
Larson, James A.	Reg. No. 40,443		

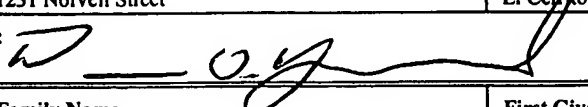
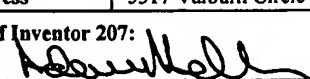
I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant & Gould P.C. to the contrary.

Please direct all correspondence in this case to Merchant & Gould P.C. at the address indicated below:

Merchant & Gould P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name Say	First Given Name James	Second Given Name L.
0	Residence & Citizenship	City Alameda	State or Foreign Country CA	Country of Citizenship USA
1	Post Office Address	Post Office Address 6 Remmel Ct.	City Alameda	State & Zip Code/Country CA 94502
Signature of Inventor 201: 			Date: 12/13/00	
2	Full Name Of Inventor	Family Name Sakslund	First Given Name Henning	Second Given Name
0	Residence & Citizenship	City Pleasant Hill	State or Foreign Country CA	Country of Citizenship Denmark
2	Post Office Address	Post Office Address 64 Rolling GREEN CIRCLE	City Pleasant Hill	State & Zip Code/Country CA 94523
Signature of Inventor 202: 			Date: 12/13/00	
2	Full Name Of Inventor	Family Name Tomasco	First Given Name Michael	Second Given Name F.
0	Residence & Citizenship	City Danville	State or Foreign Country CA	Country of Citizenship USA
3	Post Office Address	Post Office Address 41 turrini Court	City Danville	State & Zip Code/Country CA 94526
Signature of Inventor 203: 			Date: 13 Dec 2000	
2	Full Name Of Inventor	Family Name Audetti	First Given Name Jay	Second Given Name D.
0	Residence & Citizenship	City Mountain View	State or Foreign Country CA	Country of Citizenship USA
4	Post Office Address	Post Office Address 1195 Bryant Avenue	City Mountain VIEW	State & Zip Code/Country CA 94040
Signature of Inventor 204:			Date:	
2	Full Name Of Inventor	Family Name Cho	First Given Name Hyun	Second Given Name
0	Residence & Citizenship	City Berkeley	State or Foreign Country CA	Country of Citizenship South Korea
5	Post Office Address	Post Office Address 2540 College AVENUE, #105	City Berkeley	State & Zip Code/Country CA 94704
Signature of Inventor 205: 			Date: 12/12/2000	

2	<b>Full Name Of Inventor</b>	<b>Family Name</b> Yamasaki	<b>First Given Name</b> Duane	<b>Second Given Name</b> O.
0	<b>Residence &amp; Citizenship</b>	<b>City</b> El Cerrito	<b>State or Foreign Country</b> CA	<b>Country of Citizenship</b> USA
6	<b>Post Office Address</b>	<b>Post Office Address</b> 1231 Norvell Street	<b>City</b> El Cerrito	<b>State &amp; Zip Code/Country</b> CA 94530
<b>Signature of Inventor 206:</b> 				<b>Date:</b> 12/12/00
2	<b>Full Name Of Inventor</b>	<b>Family Name</b> Heller	<b>First Given Name</b> Adam	<b>Second Given Name</b>
0	<b>Residence &amp; Citizenship</b>	<b>City</b> Austin	<b>State or Foreign Country</b> TX	<b>Country of Citizenship</b> USA
7	<b>Post Office Address</b>	<b>Post Office Address</b> 5317 Valburn Circle	<b>City</b> Austin	<b>State &amp; Zip Code/Country</b> TX 78731
<b>Signature of Inventor 207:</b> 				<b>Date:</b> Dec 14, 2000

**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
  - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
- or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application:
  - (2) Each attorney or agent who prepares or prosecutes the application; and
  - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.



## United States Patent Application

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: MASS TRANSPORT LIMITED *IN VIVO* ANALYTE SENSOR

The specification of which

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Larson, James A.	Reg. No. 40,443		

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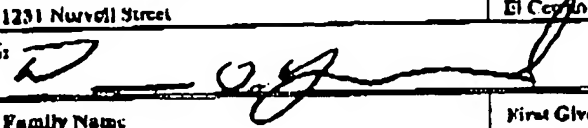
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Minneapolis, MN 55402-0903

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2	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
		Say	James	L.
0	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
		Alameda	CA	USA
1	Post Office Address	Post Office Address	City	State & Zip Code/Country
		6 Remond Ct.	Alameda	CA 94502
Signature of Inventor 201:			Date: 12/13/00	
2	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
		Sakslund	Hanning	
0	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
		Pleasant Hill	CA	Denmark
2	Post Office Address	Post Office Address	City	State & Zip Code/Country
		64 Mulling GREEN CIRCLE	Pleasant Hill	CA 94523
Signature of Inventor 202:			Date: 12/13/00	
2	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
		Tomasov	Michael	F.
0	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
		Danville	CA	USA
3	Post Office Address	Post Office Address	City	State & Zip Code/Country
		41 Burling Court	Danville	CA 94526
Signature of Inventor 203:			Date: 13 Dec 2000	
2	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
		Audett	Jay	D.
0	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
		Mountain View	CA	USA
4	Post Office Address	Post Office Address	City	State & Zip Code/Country
		1193 Bryant Avenue	Mountain View	CA 94040
Signature of Inventor 204:			Date: 12/13/00	
2	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
		Cho	Hyun	
0	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
		Berkeley	CA	South Korea
5	Post Office Address	Post Office Address	City	State & Zip Code/Country
		2540 Colloco AVENUE, #105	Berkeley	CA 94704
Signature of Inventor 205:			Date: 12/12/2000	

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2	Full Name Of Inventor	Family Name Yamazaki	First Given Name Duane	Second Given Name O.
0	Residence & Citizenship	City El Cerrito	State or Foreign Country CA	Country of Citizenship USA
6	Post Office Address	Post Office Address 1231 Norwell Street	City El Cerrito	State & Zip Code/Country CA 94530
Signature of Inventor 206: 			Date: 12/12/00	
2	Full Name Of Inventor	Family Name Heller	First Given Name Adam	Second Given Name
0	Residence & Citizenship	City Austin	State or Foreign Country TX	Country of Citizenship USA
7	Post Office Address	Post Office Address 5317 Valburn Circle	City Austin	State & Zip Code/Country TX 78731
Signature of Inventor 207:			Date:	

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### § 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
  - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
- or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
  - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

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